

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:) CASE NO. 20-60088
)
GRETCHEN CLAIRE WALDRON,) CHAPTER 7
)
Debtor(s).) JUDGE RUSS KENDIG
)
) **MOTION OF LAND HOME FINANCIAL**
) **SERVICES, INC. FOR RELIEF FROM STAY**
) **AND ABANDONMENT**
)
) PROPERTY ADDRESS:
) ** 94 Lynn Dr
) Ontario, Ohio 44906

LAND HOME FINANCIAL SERVICES, INC. (the "Movant") moves this Court, under Bankruptcy Code §§ 361, 362, 363, and other sections of Title 11 of the United States Code, under Federal Rules of Bankruptcy Procedure 4001 and 6007, and under Local Bankruptcy Rule 4001-1 for an order conditioning, modifying or dissolving the automatic stay imposed by Bankruptcy Code § 362 and for Abandonment of Property Under Bankruptcy Code § 554.

MEMORANDUM IN SUPPORT

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this Motion is proper under 28 U.S.C. §§ 1408 and 1409.

2. On June 23, 2017 the Debtor Gretchen C Waldron obtained a loan from **Land Home Financial Services, Inc, a California**

Corporation in the amount of \$112,818.00. Such loan was evidenced by a promissory note dated June 23, 2017, (the "Note"), a copy of which is attached as Exhibit A. **The loan was subsequently modified, effective from July 1, 2019. The Loan Modification Agreement is attached hereto as Exhibit B.**

3. To secure payment of the Note and performance of the other terms contained in it, the Debtor Gretchen C Waldron executed a Security Agreement in favor of Mortgage Electronic Registration Systems, Inc., as nominee for Land Home Financial Services, Inc, dated June 23, 2017 (the "Security Agreement"). The Security Agreement granted a lien on the real property, **located at** 94 Lynn Dr, Ontario, Ohio 44906 owned by the Debtor Gretchen C Waldron (the "Collateral"). The Collateral is more fully described in the Security Agreement (check one):

☒ attached as Exhibit C;

OR

☐ contained in the Note, attached as Exhibit A.

4. The lien created by the Security Agreement was duly perfected by (check all that apply):

☒ Filing of the Security Agreement in the office of the Richland County Recorder on June 28, 2017.

☐ Filing of the UCC-1 Financing Statement in the office of _____ on (DATE).

☐ Notation of the lien on the Certificate of Title.

☐ Other (state with particularity) _____.

A copy of the recorded Security Agreement, UCC-1 Financing Statement, Certificate of Title or other document, as applicable, is attached as Exhibit B. Based on Debtor's Schedules, the lien is the 1st lien on the Collateral.

5. The entity in possession of the original Note as of the date of this motion is LAND HOME FINANCIAL SERVICES, INC.

6. The entity servicing the loan is: N/A

7. The Note was transferred, as evidenced by the following:

a. If the Collateral is real estate:

i. Under Uniform Commercial Code § 3-203(a) as applicable under state law in effect where the property is located, from the original lender (check only one):

☒ N/A.

OR

☐ By endorsement on the Note, payable to _____.

OR

☐ By blank endorsement on the Note.

OR

☐ By allonge attached on the Note, payable to _____.

OR

☐ By blank allonge, attached to Note.

OR

☐ The Note is not endorsed to the Movant, or is not endorsed in blank with an allegation that the Movant is in possession of the original note. The factual and legal basis upon which the Movant is entitled to bring this motion is (explain with particularity and attach supporting documentation)

_____.

☐ By endorsement on the Note or by allonge attached to the Note, through a power of attorney. If this box is checked, a copy of the power of attorney is attached as Exhibit __. Explain why it provides Movant the authority to endorse the Note:

_____.

ii. Under Uniform Commercial Code § 3-203(a) as applicable under state law in effect where the property is located, from the _____ to _____.

iii. A court has already determined that Movant has the ability to enforce the Note with a judgment dated _____ in the _____. A copy of the judgment is attached at Exhibit __.

iv. Other _____ [explain].

b. If the Collateral is not real estate (check one):

☐ N/A.

OR

☐ From the original lender to

_____ by

8. The Security Agreement was transferred as follows (check one) :

☐ N/A.

OR

☒ From the original lender, mortgagee, or mortgagee's nominee on April 2, 2018 to Land Home Financial Services, Inc. The transfer is evidenced by the document(s) attached to this Motion as Exhibit D.

9. The value of the Collateral is \$93,320.00. This valuation is based on Richland County Recorder.

10. As of the date of this motion, there is currently due and owing on the Note the outstanding principal balance of \$117,443.63, plus interest accruing thereon at the rate of 4.750% per annum from January 1, 2020, as described in more detail on the worksheet. The total provided in this paragraph cannot be relied upon as a payoff quotation.

11. The amount due and owing on the Note as set forth in paragraph 10 **does not** include a credit for the sum held in a suspense account by the Movant. The amount of the credit is \$0.00.

12. Other parties known to have an interest in the Collateral besides the debtor(s), the Movant, and the trustee are (check all that apply):

- ☐ N/A.
- ☒ The Richland County Treasurer, for real estate taxes, in an unknown amount.
- ☐ Co-Debtor _____
- ☒ Judgement Lien in favor of Barclays Bank Delaware in an unknown amount.

13. The Movant is entitled to relief from the automatic stay under Bankruptcy Code § 362(d) for these reason(s) (check all that apply):

- ☐ Debtor has failed to provide adequate protection for the lien held by the Movant for these reasons:

- ☐ Debtor has failed to keep the Collateral insured as required by the Security Agreement.
- ☐ Debtor has failed to keep current the real estate taxes owed on the Collateral.
- ☒ Debtor has failed to make periodic payments to Movant for the months of February 2020 through April 2020, which unpaid payments are in the aggregate amount of \$2,930.02 through April 13, 2020. The total provided in this paragraph cannot be relied upon as a reinstatement quotation.
- ☒ Debtor has no equity in the Collateral, because the Collateral is valued at \$93,320.00, and including the Movant's lien, there are liens in an aggregate amount of \$118,087.77 on the Collateral.

☐ Other cause (set forth with specificity):_____.

14. Movant has completed the worksheet, attached as Exhibit E.

15. Movant is entitled to an order directing the trustee to abandon the Collateral under 11 U.S.C. §554(b) for these reasons (check all that apply):

- ☐ The Collateral is burdensome to the estate because _____.
- ☒ The Collateral is of inconsequential value and benefit to the estate because upon liquidation of the Collateral no proceeds will remain for the benefit of the estate.

WHEREFORE, Movant prays for an order from the Court:

- (a) granting Movant relief from the automatic stay of Bankruptcy Code § 362 to permit Movant to proceed under applicable nonbankruptcy law; AND
- (b) AUTHORIZING AND DIRECTING THE CHAPTER 7 TRUSTEE TO ABANDON THE COLLATERAL UNDER BANKRUPTCY CODE § 554.

Respectfully submitted,

/s/ Cynthia A. Jeffrey
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CERTIFICATE OF SERVICE

I certify that on April 27, 2020, a true and correct copy of the Motion for Relief from Stay was served:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the court's Electronic Mail Notice List:

1. Office of the U.S. Trustee at (Registered address)@usdoj.gov
2. Anthony DeGirolamo on behalf of the Chapter 7 Trustee's office at ajdlaw@sbcglobal.net
3. Deborah L Mack, Esq. on behalf of Gretchen Claire Waldron, Debtor, at debbie@ohiodebtrelief.lawyer

And by regular U.S. mail, postage prepaid, to:

4. Gretchen Claire Waldron, Debtor at 94 Lynn Dr, Ontario, OH 44905
5. Richland County Treasurer's Office, 50 Park Avenue East at Mansfield, Ohio 44902
6. Barclays Bank Delaware at Attn: Correspondence, PO Box 8801, Wilmington, DE 19899

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